

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

LAW DEPARTMENT  
701 COMMERCE STREET  
DALLAS, TEXAS 75202

14725-B  
RECORDATION NO. Filed 1425

ARTHUR M. ALBIN  
General Counsel

JUL 1 1985 2 22 PM

214-651-6740

INTERSTATE COMMERCE COMMISSION 410.043-106  
In reply refer to:

No. 5-182A012  
Date JUL 1 1985  
Fee \$ 10.00  
ICC Washington, D. C.

June 28, 1985

Mr. James Bayne  
Secretary  
Interstate Commerce Commission  
12th and Constitution Ave., N.W.  
Washington, D.C. 20423

Re: Car Lease Agreement dated as of June 28, 1985, between  
Donland Development Company and Missouri-Kansas-Texas  
Railroad Company covering 482 Gondola Cars.

Dear Mr. Bayne:

I have enclosed an original and several counterparts of the document described  
below, to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

This document is a secondary document, dated as of June 28, 1985.

The primary document to which this is connected is a Security Agreement between  
Donland Development Company and Texas Commerce Bank National Association dated  
as of July 1, 1985, covering the above 482 Gondola Cars.

The names and addresses of the parties to the document are as follows:

Lessor: Donland Development Company  
701 Commerce Street  
Dallas, TX 75202  
Attn: Mr. H. O. Brandt

Lessee: Missouri-Kansas-Texas Railroad Company  
701 Commerce Street  
Dallas, TX 75202  
Attn: Mr. Karl R. Ziebarth

ICC OFFICE OF  
THE SECRETARY  
JUL 1 2 02 PM '85  
MAIL ROOM OPERATING UNIT

A description of the equipment covered by the document follows:

Four Hundred Eight-Two (482) 100-ton 52'6" Gondola Cars bearing MKT road  
numbers as follows (all numbers inclusive):

16000/16001	16149/16193	16273/16291	16391/16404
16003/16031	16195/16217	16293/16296	16406/16409
16033/16039	16219/16225	16298/16308	16411/16419
16041/16051	16227/16228	16310	16421/16438
16053/16066	16230/16232	16312/16323	16440/16444
16089/16097	16234/16247	16325/16358	16446/16449
16099/16107	16249/16251	16360	16451/16460
16109/16130	16253/16258	16363/16369	16462/16481
16132/16147	16260/16271	16371/16388	16483/16519

Counter  
J. J. Bonaguet

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

LAW DEPARTMENT

Mr. James Bayne

- 2 -

June 28, 1985

A cashier's check in the amount of \$10.00 is enclosed for the filing fee. Please return all counterparts not needed by the Commission for recordation, stamped to show recordation, to the person who presents this letter and documents for filing.

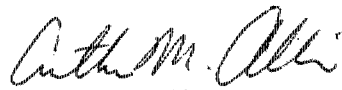
A short summary of the document to appear in the Index follows:

Car Lease Agreement dated as of June 28, 1985, between Donland Development Company and Missouri-Kansas-Texas Railroad Company covering Four Hundred Eighty-Two (482) 100-ton 52'6" Gondola Cars bearing MKT's road numbers as follows (all numbers inclusive):

16000/16001	16149/16193	16273/16291	16391/16404
16003/16031	16195/16217	16293/16296	16406/16409
16033/16039	16219/16225	16298/16308	16411/16419
16041/16051	16227/16228	16310	16421/16438
16053/16066	16230/16232	16312/16323	16440/16444
16089/16097	16234/16247	16325/16358	16446/16449
16099/16107	16249/16251	16360	16451/16460
16109/16130	16253/16258	16363/16369	16462/16481
16132/16147	16260/16271	16371/16388	16483/16519

I certify that I have knowledge of the foregoing.

Yours very truly,

  
Arthur M. Albin,  
General Counsel

AMA:vas  
Enclosures

JUL 1 1985 -2 25 PM

C A R L E A S E A G R E E M E N T INTERSTATE COMMERCE COMMISSION

AGREEMENT made and entered into as of the 28th day of June, 1985, between DONLAND DEVELOPMENT COMPANY, hereinafter referred to as "Lessor," and MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, hereinafter referred to as "Lessee."

R E C I T A L S

Lessor desires to lease to Lessee and Lessee desires to lease from Lessor Four Hundred Eighty-Two (482) 100-ton 52'6" Gondola Cars ,as described in Exhibit A, attached hereto.

A G R E E M E N T

NOW, THEREFORE, IT IS COVENANTED AND AGREED BY THE PARTIES AS FOLLOWS:

1. Lease of Cars. Lessor agrees to lease to Lessee, and Lessee agrees to and hereby does lease from Lessor those certain Gondola Cars (hereinafter referred to collectively as the "Cars" and individually as the "Car"), being Four Hundred Eighty-Two (482) 100-ton 52'6" Gondola Cars, as further described and set forth in Exhibit A, attached hereto and incorporated herein by reference.
2. Delivery and Acceptance of Cars. Lessee hereby acknowledges delivery of the Cars to Lessee on or about the date first set forth above. Lessee represents that it has inspected the Cars and the the Cars are in a physical condition acceptable to Lessee.
3. Use and Possession. Throughout the continuance of this lease and so long as Lessee is not in default hereunder, Lessee shall be entitled to possession of the Cars and may use such Cars (i) on its own property, and (ii) upon the lines of any other railroad, but within the boundaries of the United States, for interchange of traffic and switching purposes. Lessee shall receive such compensation for the use of said Cars (i) as is provided for in the then current Code of Rules Governing the Condition of, and Repairs to, Freight and Passenger Cars for the interchange of traffic adopted by the Association of American Railroads (hereinafter called the "Interchange Rules"), or (ii) such other compensation as Lessee and the user railroads may agree to, provided Lessee shall comply at all times with the requirements of Section 5 hereof, but any such uses of said Cars shall at all times be subject to the terms and conditions of this Lease.
4. Term. This Lease shall be for a term of seven (7) years, commencing as of the 1st day of July, 1985, and terminating on June 30, 1992, unless sooner terminated in accordance with the provisions hereof.

5. Rental. During the term of this Lease, Lessee shall pay to Lessor, as rental, an amount equal to the quarterly payments which Lessor has agreed to make to Texas Commerce Bank National Association, hereinafter referred to as "Bank," pursuant to a Note dated July 1, 1985, being payments of both principal and interest. Rental shall commence on September 30, 1985, and shall be due and payable on the last day of each succeeding December, March, June, and September thereafter. Lessee acknowledges receipt of a copy of said Note.

In the event Lessor causes any of said Cars to be improved, repaired, or rebuilt, the rental required to be paid by Lessee shall be increased to cover the financing costs (both principal and interest) incurred by Lessor in connection with any such improvements, repairs or rebuilding program. Rental as to any such Cars shall not abate during the program of any such work on the Cars, but Lessor shall use its best efforts to see that same is timely done with minimal delays to Lessee.

6. Title. Lessee acknowledges and agrees that by the execution of this agreement it does not obtain, and by payments and performance hereunder it does not and will not have or obtain any title to the Cars or any property right or interest therein, legal or equitable, except solely as Lessee hereunder and subject to all of the terms and provisions hereof.

7. Maintenance. Lessee, during the continuance of this Lease, shall perform or cause to be performed and shall pay all costs and expenses of all maintenance and repair work necessary to maintain the Cars in good working order and general condition as when delivered to Lessee, ordinary wear and tear excepted. Lessee shall not be responsible for ordinary wear and tear. Any parts, replacements, or additions made to any Car shall be accessions to such Car, and title thereto shall immediately vest in Lessor without cost or expense to Lessor.

8. Taxes. Lessee shall be responsible for and shall pay all use and ad valorem taxes and assessments levied or assessed during the continuance of this Lease upon the Cars.

9. Liens. Lessee shall keep the Cars free from any encumbrances or liens which may be a cloud upon or otherwise affect Lessor's interest, which arise out of any suit involving Lessee or any act, omission or failure of Lessee or Lessee's failure to comply with the provisions of this Lease and shall promptly discharge any such lien, encumbrances or legal process.

10. Warranty - Representations. Lessor makes no warranty or representations of any kind whatsoever, either express or implied as to any matter whatsoever, including specifically but not exclusively, fitness, design, workmanship, condition or quality of the Cars or parts thereof which Cars have been accepted by Lessee hereunder, and Lessor shall have no liability hereunder for damages of any kind, including specifically but not exclusively, special, indirect, incidental, or consequential on account of any matter which would otherwise constitute a breach of warranty or representation.

11. Car Marking. Lessee, at Lessee's expense, shall cause said Cars to be maintained with Lessee's recording marks.
12. Loss, Theft or Destruction of Cars. In the event any Car is lost, stolen, or is destroyed, or is damaged beyond economic repair from any cause whatsoever, except if caused by Lessor, Lessee shall promptly and fully inform Lessor of such occurrence and shall, at the time of the next monthly payment or at such other date as may be mutually agreed upon, pay to Lessor as liquidated damages in lieu of any further claim of Lessor hereunder except for accrued rent and such claims as may have arisen under Paragraphs 8, 9, and 17, an amount in cash equal to the amount Lessor shall be obligated to pay to the Lessor an amount equal to the unpaid principal and accrued interest due by Lessor to Bank for each such Car, plus any other amounts payable by Lessor to Bank. Lessee shall promptly notify Lessor of any loss hereunder, and Lessor shall forthwith advise Lessee of the amount due.
13. Return of Cars. Upon the termination of this Lease, as provided for herein, the Lessee agrees to return the Cars (except for any Cars lost, stolen, or destroyed and paid for pursuant to Paragraph 12 above) forthwith to Lessor at any point on Lessee's lines, as may be designated by Lessor.
14. Default. The term "Event of Default" for the purpose hereof shall mean any one or more of the following:
- (a) Non-payment by Lessee after the same becomes due of any installment of rental or any other sum required to be paid hereunder by Lessee.
  - (b) Lessee shall default or fail for a period of ten (10) days following written notice to Lessee, in the due observance or performance of any covenant, condition or agreement required to be observed or performed on its part hereunder.
  - (c) A decree or order shall be entered by a court having jurisdiction in the premises adjudging Lessee a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of Lessee under the Federal Bankruptcy Act or any other applicable Federal or State law, or appointing a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Lessee or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance or any such decree or order unstayed and in effect for a period of thirty (30) days.
  - (d) The institution by Lessee of proceedings to be adjudicated a bankrupt or insolvent, or the consent by it to the institution of any proceedings or to any action taken or proposed

to be taken in any proceedings or action described in Paragraph 14(c), or the making by Lessee of any assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by Lessee in furtherance of any such action.

- (e) Any act or omission, action or inaction, by Lessee which results in an Event of Default under the terms and provisions of a Security Agreement dated July 1, 1985, between Lessor and Bank and/or under the terms and provisions of that certain letter loan agreement dated June 28, 1985, between Lessor and the Bank.

15. Remedies. Upon the happening of an Event of Default, Lessor, at its option, may:

- (a) proceed by appropriate court action, either at law or in equity, for specific performance by the Lessee of the applicable covenants of this Lease or to recover from Lessee all damages, including specifically but not exclusively, expenses and attorneys' fees which Lessor may sustain by reason of Lessee's default or on account of Lessor's enforcement of its remedies hereunder;
- (b) elect only to terminate the Lessee's right of possession (but not to terminate the Lease) without releasing Lessee in whole or in part from its liabilities and obligations accrued hereunder or hereafter to accrue for the remaining term of the Lease, and thereupon require Lessee to deliver all such Cars to Lessor at any point designated by it or to take possession itself of any or all of the Cars wherever same may be found. Lessor may, but need not, require delivery of the Cars to it or repossess the Cars, but in the event the Cars are delivered to Lessor or are repossessed, Lessor shall use reasonable efforts to relet the same or any part thereof to others upon a reasonable rental and such other terms as it may see fit. The proceeds of any such reletting shall first be applied to the expenses (including reasonable attorneys' fees) of retaking and reletting of the Cars and delivery to the new lessee, and then to the payment of rent due under this Lease. Lessee shall pay any deficiency remaining due after so applying the proceeds as the same shall accrue. Lessor shall not be required to accept any lessee offered by Lessee or do any act whatsoever or exercise any diligence whatsoever in or about the procuring of another lessee to mitigate the damages of the Lessee or otherwise. The election by Lessor to relet the Cars and the acceptance of a new lessee shall not operate to release Lessee

from liability for any existing future default in any other covenant or promise herein contained;

- (c) declare this Lease terminated and recover from Lessee all amounts then due and payable plus, as liquidated damages for loss of the bargain and not as penalty, a sum which represents the excess of the present worth, at the time of such termination, if any, of the aggregate rental which would have thereafter accrued from the date of such termination to the end of the original term over the then present worth of the fair rental value of the Cars for such period. Present worth is to be computed in each case on the basis of a five percent (5%) per annum discount, compounded annually from the respective dates upon which rental would have been payable hereunder had this Lease not terminated. In addition to the foregoing, Lessor shall recover any damages sustained by reason of the breach of any covenant of the Lease other than for the payment of rental;
- (d) recover or take possession of any or all of the Cars and hold, possess and enjoy the same, free from any right of the Lessee to use the Cars for any purposes whatsoever.

The remedies provided in this Paragraph 15 in favor of Lessor shall not be deemed exclusive but shall, where not by rule of law inconsistent with each other, be cumulative and may be availed of singly, in combination, or all together and in any order, and shall be in addition to all other remedies, in Lessor's favor existing at law or in equity.

16. Sublease and Assignment. Lessee shall have no right to sublease any of the Cars without the prior written consent of Lessor. Lessor shall have the right to assign the Lease or its rights thereunder as follows: All rights of Lessor hereunder may be assigned, pledged, mortgaged, transferred or otherwise disposed of either in whole or in part with or without notice to Lessee, but subject to Lessee's rights under this Lease. If Lessor shall have given written notice to Lessee stating the identity and post office address of any assignee entitled to receive future rentals and any other sums payable to Lessee hereunder, Lessee shall thereafter make such payments to the designated assignee. Lessee will not amend, alter or terminate this Lease without the consent of the assignee while such assignment is in effect. The rights of any assignee or any party or parties on behalf of whom such assignee is acting shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever, unless arising out of a breach of any obligation of Lessor hereunder or by reason of any other indebtedness or liability at any time owing by Lessor to the Lessee.

17. Indemnification. Lessee hereby agrees to indemnify and save harmless the Lessor and Bank from and against any and all liability, demands, and causes of action, whether well-founded or otherwise, including the cost of defending same, for bodily injury to or death of any

person or damage to the property of any person whatsoever, including the parties hereto or the employees of either of them, arising out of or in connection with the use or operation of said Cars leased hereunder, whether said damage shall be the result of obvious defects or other causes, and shall not call upon the Lessor or any other party having an ownership or financial interest in and to said Cars for contribution in any sum whatsoever by reason of the fact of such interest in and to said Cars. Indemnity shall apply from the time the said Cars are accepted by the Lessee until they are returned to and accepted by the Lessor; provided, however, this indemnification provision shall not apply as to any Cars when they are in the possession of Lessor while being transported on Lessor's lines of railroad unless such bodily injury, death or damage to property be caused by the negligence of Lessee, in which event said provisions shall apply.

18. Notice. Any notice required or permitted to be given pursuant to the terms of this lease shall be properly given when forwarded registered United States mail, return receipt requested, postage prepaid, addressed to:

Donland Development Company  
701 Commerce Street  
Dallas, TX 75202

Attention: H. O. Brandt

or at such other address as Lessor may from time to time designate by notice in writing, and to Lessee at:

Missouri-Kansas-Texas Railroad Company  
701 Commerce Street  
Dallas, TX 75202

Attention: Karl R. Ziebarth

or any such other place as Lessee may from time to time designate by notice in writing.

19. Recording of Lease. Lessee agrees to forthwith, following execution hereof, cause this Lease to be recorded with the Interstate Commerce Commission in accordance with Section 11303 of the Interstate Commerce Act.

20. Counterparts. This agreement may be executed in multiple counterparts, each of which shall be deemed an original.

21. Law Governing. The terms of this agreement and all rights and obligations hereunder shall be governed by the laws of the State of Texas.



IN WITNESS WHEREOF, Lessor and Lessee have duly executed this Lease as of the day and year first above written.

DONLAND DEVELOPMENT COMPANY,  
Lessor

By: H. O. Brandt  
Vice President

ATTEST:

[Signature]  
Assistant Secretary

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY,  
Lessee

By: H. D. Zimmerman  
Vice President

ATTEST:

A. M. Ali  
Assistant Secretary

THE STATE OF TEXAS:

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas, on this day personally appeared H. O. Brandt, Vice President, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said DONLAND DEVELOPMENT COMPANY, a corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 28th day of June, 1985.


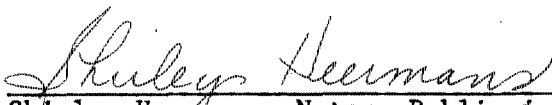
Virginia A. Schoeneberger  
Virginia A. Schoeneberger, Notary Public  
in and for the State of Texas

My Commission expires: March 24, 1986 .

THE STATE OF TEXAS:

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas, on this day personally appeared H. T. Dimmerman, Vice President, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, a corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 28th day of June, 1985.

  
  
Shirley Heermans, Notary Public in and  
for the State of Texas

My Commission expires: April 29, 1986 .

482 100-TON 52'5" GONDOLA CARS BEARING MKT ROAD NUMBERS:

16000  
16001  
16003 through 31  
16033 through 39  
16041 through 51  
16053 through 66  
16068 through 87  
16089 through 97  
16099 through 107  
16109 through 130  
16132 through 147  
16149 through 193  
16195 through 217  
16219 through 225  
16227  
16228  
16230 through 232  
16234 through 247  
16249 through 251  
16253 through 258  
16260 through 271  
16273 through 291  
16293 through 296  
16298 through 308  
16310  
16312 through 323  
16325 through 358  
16360  
16363 through 369  
16371 through 388  
16391 through 404  
16406 through 409  
16411 through 419  
16421 through 438  
16440 through 444  
16446 through 449  
16451 through 460  
16462 through 481  
16483 through 519